

CONTRACT PROVISIONS FOR NON-FEDERAL ENTITY CONTRACTS UNDER FEDERAL AWARDS

Special Terms and Conditions for Federal Contract Funded Purchases

When the contract entered into with the Contractor/Vendor/Consultant (Contractor) is in furtherance of the performance of work required by the University in contract with the United States of America, the Contractor is subject to the following terms and conditions in addition to any other terms and conditions required by the University. These terms and conditions are intended to comply with and should be interpreted in accordance with the Office of Management and Budget (OMB)'s Uniform Administrative Requirements, 2 CFR Part 200 ("Uniform Guidance") – [Appendix II](#).

1. Contracts for more than the simplified acquisition threshold currently set at \$150,000, which is the inflation adjusted amount determined by the civilian agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by [41 U.S.C. 1908](#), must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.
2. All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-federal entity including the manner by which it will be effected and the basis for settlement.
 - a. **Termination for Convenience.** Contract is terminated due to reasons know to the University, i.e., program changes, changes in state-of-the art equipment or technology, insufficient funding, etc. Termination is utilized when the contractor is not in violation of the contract terms and conditions.
 - b. **Termination for Cause.** Contract is terminated due to actions by the contractor, i.e., failure to perform, financial difficulty, slipped schedules, etc. In certain instances, termination settlement may include re-procurement costs to be paid by the contractor.
3. **Rights to Inventions Made Under a Contract or Agreement.** Any discovery or invention that arises during the course of the contract shall be reported to University. The contractor shall disclose promptly inventions to the contracting officer (within 2 months) after the inventor discloses it in writing to the contractor personnel responsible for patent matters. The awarding agency shall determine how rights in the invention/discovery shall be allocated consistent with "Government Patent Policy" and [Title 37 C.F.R. § 401](#).

If the Federal award meets the definition of "funding agreement" under 37 C.F.R. §401.2 (a) and the recipient or sub recipient wishes to enter into a contract with a small business or firm or non-profit organization regarding the substitution of parties, assignments or performance of experimental, developmental, or research work under that 'funding agreement,' the recipient or sub recipient must comply with the requirements of [37 CFR Part 401](#), "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

University award terms and conditions contained in grant or cooperative agreement award documentation also may contain provisions regarding patents and intellectual property, specifically including requirements or special instructions, that may require that non-Federal entities include specific contract provisions (if applicable) in procurement contracts entered into under University grant or cooperative agreement awards.

4. **Debarment and Suspension** (Executive Orders 12549 and 12689) A contract award (see 2 CFR 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM) Exclusion lists, in accordance with OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and suspension. “SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.
5. **Byrd-Anti-Lobbying Amendment** (31 U.S.C. 1352) Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.
6. See **2 C.F.R §200.322 Procurement of Recovered Materials**. A non-Federal entity that is a state agency or agency of a political subdivision of a state must include a provision requiring contractors to comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. Per Section 6002, where the purchase price of the items exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000, these non-Federal entities and their contractors must procure only items, designated in guidelines of the EPA at 40 C.F.R. § 247, containing the highest percentage of recovered material practicable, consistent with maintaining a satisfactory level of competition. These non-Federal entities and their contractors must procure solid waste management services so that energy and resource recovery are maximized, and they must establish an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.
7. **Clean Air and Water**. Contractors (and sub recipients) exceeding \$150,000.00 must contain a provision requiring the contractor (or sub recipients) to agree to comply with all requirements of the Clean Air Act (42 U.S.C. 7401 et seq.), and the Clean Water Act [Federal Water Pollution Control Act] as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal Awarding Agency and the Regional Office of the Environmental Protection Agency (EPA).

8. **“If Applicable, this contractor and subcontractor shall abide by the requirements of 41 CFR 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity, national origin, and for inquiring about, discussing or disclosing compensation. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, disability or veteran status”**